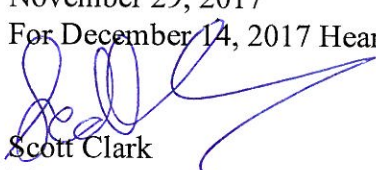




MEMORANDUM

TO: Steven C. Shell
Zoning Examiner

DATE: November 29, 2017
For December 14, 2017 Hearing

FROM: 
Scott Clark
Planning & Development Services
Interim Director

SUBJECT: SPECIAL EXCEPTION LAND USE
PLANNING & AND DEVELOPMENT SERVICES REPORT
Mayor and Council Special Exception Procedure
SE-17-109 T-Mobile – 1st Avenue, C-2 (Ward 3)

Issue – This is a request by Nancy Smith of WYCO Field Services Consulting, on behalf of T-Mobile, for approval of a wireless communication facility (WCF). The special exception site is located within an existing WCF compound, approximately 300 feet west of 1st Avenue and 300 feet north of Prince Road (see Case Location Map), on an otherwise vacant parcel. The preliminary development plan (PDP) proposes a wireless stealth communication tower with nine antennas concealed within an artificial palm tree (monopalm), 72 feet in height as measured to top of the highest artificial palm frond. A stealth flagpole, currently being used to conceal existing T-Mobile wireless antennas near the southwest corner of the storage facility, will be removed. The applicant states that the existing flagpole has become obsolete due to technological advances and the required antennas are too large to be disguised within a flagpole structure. The proposed monopalm and associated ground equipment will be located within the existing walled equipment compound, which measures 18 feet, 8 inches by 28 feet, 1 inch.

A communications use of this type in the C-2 zone is subject to Sections 4.9.13.O and 4.9.4.I.2, .3, and .7 of the *Unified Development Code (UDC)* and requires approval through a Mayor & Council Special Exception Procedure, Sec. 3.4.4, because the tower does not meet a 2 to 1 setback from O-3 (office) zoned property located approximately 80 feet to the north and west of the proposed monopalm site. Documentation provided by the applicant indicates that no practical alternative exists, and measures are being taken to conceal or disguise the tower and antenna from view by painting the monopole and attachments a brownish rust color.

The Mayor & Council Special Exception Procedure requires a public hearing before the Zoning Examiner after which the Zoning Examiner forwards a recommendation to the Mayor and Council for a decision to grant the request with, or without, conditions or to deny the request. The Mayor and Council may also forward the request to the Design Review Board (DRB) for design review and recommendation.

Planning & Development Services Department Recommendation – The Planning & Development Services Department recommends approval of the special exception request, subject to the attached preliminary conditions.

Background Information

Existing Land Use: The site is currently developed with a wireless communication facility disguised as a flagpole with associated ground equipment.

Zoning Descriptions:

C-2: This zone provides for general commercial uses that serve the community and region. Residential and select other agriculture, civic, recreational, and utility uses may also be permitted that provide reasonable compatibility with adjoining residential uses.

Surrounding Zones and Land Uses:

North: Zoned C-2; Commercial, automotive repair

South: Zoned C-2; Commercial and self storage facility

East: Zoned C-2; Vacant land and Commercial uses across 1st Avenue

West: Zoned C-2; Residential, single family homes, duplexes, and triplexes

Previous Cases on the Property:

SE-00-07 Voicestream Wireless – First Avenue, C-2 Zone – This was a request for a Type IV special exception land use to allow construction of a stealth wireless communication facility disguised as a flagpole. On April 14, 2000, the Planning Director approved the special exception land use.

Related Cases:

SE-15-14 Verizon - Grant Road, C-1 Zone – This was a request for approval of a wireless communication facility concealed within an artificial palm tree, 60 feet in height and associated equipment as a special exception land use in the C-1 zone. The special exception site is located 95 feet north of Grant Road and 67 feet west of Columbus Boulevard. On July 7, 2015, the Mayor and Council adopted Ordinance No. 11288, allowing the special exception.

SE-13-22 AT&T– Fort Lowell Road, C-1 Zone – This was a request for approval of a wireless communication facility concealed within an artificial palm tree, 65 feet in height and associated equipment as a special exception land use in the C-1 zone. The special exception site is located 180 feet south of Fort Lowell Road and 610 feet west of Campbell Avenue. On July 9, 2013, the Mayor and Council adopted Ordinance No. 11092, allowing the special exception.

SE-12-63 AT&T – Limberlost Drive, C-2 Zone – This was a Zoning Examiner Special Exception request for approval of a wireless communication facility concealed within an artificial palm tree, 65 feet in height and associated equipment as a special exception land use in the C-2 zone on the site of a self storage facility and located approximately 110 feet north of Limberlost Drive and 700 feet west of Oracle Road. A stealth flagpole, which had been previously used to conceal the existing AT&T wireless antennas was decommissioned, removed and replaced by a true flagpole in the same location. On July 17, 2012 the Zoning Examiner approved the special exception request subject to standard and special conditions.

Applicant's Request – The applicant requests special exception approval for the placement of a 72-foot high wireless communication facility disguised as a palm tree (monopalm) with associated equipment on a parcel currently developed with a stealth wireless communication facility designed as a flagpole.

Planning Considerations – Land use policy direction for this area is provided by the *North Stone Neighborhood Plan (NSNP)* and *Plan Tucson*. Although the *NSNP* does not have specific language for wireless communication facilities, it does support commercial development at this location. The overall goals of the *NSSP* encourage a compatible mix of residential, office and commercial uses, while protecting the integrity of existing neighborhoods and mountain views.

The rezoning site is located within a mixed-use corridor as identified on the Future Growth Scenario Map of *Plan Tucson*. Mixed-use corridors combine a variety of housing options, retail, services, office, and public gathering places, located close to each other, providing occupants of the center and the residents and workers in the surrounding neighborhoods with local access to goods and services. *Plan Tucson* policies protect established residential neighborhoods by supporting compatible development, including non-residential uses, where the scale and intensity of use is compatible with adjacent uses. Policies require that wireless communication facilities be located, installed and maintained to minimize visual impacts and preserve views, and call for improving the appearance of above-ground utilities and structures and extending access to high-tech wireless communication facilities throughout the city.

The project is in general compliance with the intent of these plans. The plan policies generally support new cell tower proposals when designed to minimize visual impacts on surrounding neighborhoods and when buffering is provided. The ground lease area is approximately 19 feet by 28 feet with ground level equipment that will be screened from view by an existing 8-foot high masonry wall.

Field inspection by staff indicates there are currently no billboards on the rezoning site.

Design Considerations

Land Use Compatibility – Mitigation measures supported by staff include disguising the tower as a palm tree to minimize visual impacts. The proposed monopalm will include three antennas per sector with three sectors for a total of nine antennas.

The nearest residential home is in C-2 zoning and located approximately 100 feet to the west of the WCF, which is set back from 1st Avenue by approximately 300 feet. The applicant has submitted a photo-simulation of the monopalm showing the antennas concealed by artificial palm fronds. The monopalm will be visible from the surrounding residential neighborhoods, commercial developments, and from nearby streets.

The applicant proposes to place the monopalm and ground equipment within the existing WCF lease area, which is approximately 19 feet by 28 feet, and located in the southwest corner of an otherwise vacant parcel, where there is already a wireless communication facility with a stealth flagpole tower structure operated by T-Mobile. Ground equipment will be housed inside an equipment cabinet located next to a diesel backup generator, both to be located on a concrete slab and screened by an existing 8-foot high masonry wall. The proposed back-up generator shall be designed to minimize potential noise impacts to the adjacent multi-family residential complex. Staff recommends the masonry screen wall surrounding the lease area be painted in neutral desert colors. Staff further recommends that any graffiti be removed within 72 hours of observation.

In terms of wireless communication facilities, a stealth application is one that disguises the appearance of the pole and antennas to look like an element of the built or natural landscape, which could typically occur at the chosen location. A stealth application should be as close as possible in scale and appearance to the object it is disguised as, with no obvious unnatural elements. The success of a stealth application is dependent on the ability of the design and construction of the cellular site to fit into its surroundings to such a degree that it is not noticeable. Scale and proportion, site design, color, and materials, are particularly important in stealth applications insofar as they contribute, or do not contribute, to the ability of the facility to be as unobtrusive as possible. To ensure a successful stealth monopalm at this location, the following standards should be incorporated into the conditions:

- The monopalm shall not exceed 72 feet in height at top of fronds;
- The monopalm shall include crown with artificial palm fronds;
- The pole shall be covered with cladding (bark) from the pineapple to bottom of pole, and painted to resemble a live palm;
- There shall be a minimum of 55 fronds ranging in length from seven (7) feet to ten (10) feet and placed to extend above, below and between antenna panels;
- Replacement of lost/damaged fronts to be completed within ten working days of observation and fronds shall be colored to match live fronds as closely as possible;
- All cables shall be run inside the pole, with no foot pegs or other visible appurtenances;
- All wire ports shall be concealed behind the antennas and all equipment shall be mounted behind the antenna panels;
- Antenna panels shall be painted with a light/shade pattern to better camouflage them;
- Ground equipment to be screened by an existing masonry wall.

Road Improvements/Vehicular Access/Circulation – No road improvements are proposed with the project. Vehicular access to the WCF will be through the existing curb cut along 1st Avenue. According to the *Major Streets and Routes Plan*, 1st Avenue is designated as an arterial street with a right-of-way width of 120 feet.

Use-Specific Standards – The applicant’s proposal requires approval as a Mayor and Council Special Exception and must meet the Use-Specific Standards of UDC Sections 4.9.13.O and 4.9.4.I.2, .3, and .7. The Mayor and Council may forward the request to the Design Review Board for design review and recommendation. Below is an analysis of the performance criteria.

4.9.4.I.7

The following requires approval as a special exception in accordance with Section 3.4.4, *Mayor and Council Special Exception Procedure*. The Mayor and Council may forward to the Design Review Board (DRB) for design review and recommendation.

a. Wireless communication antennas, provided:

- (1) The tower or antennas are not permitted by other provisions of this Section.

The 72-foot monopalm in the C-2 zone does not conform to any other section of the code because it does not meet the 2:1 setback from residential or office zoned property located approximately 80 feet from the WCF.

- (2) New towers require a minimum separation of one mile from any existing tower, regardless of ownership, unless documentation establishes that no practical alternative exists.

The nearest existing wireless communications facility (WCF) is 2,900 feet to the east, and approximately 3,200 feet to the south of the site. This facility is not suitable to fit within the existing sites on T-Mobile’s network. The search ring to resolve the coverage gap has a radius of approximately 0.25 miles.

- (3) All appropriate measures shall be taken to conceal or disguise the tower and antenna from external view.

The tower will be disguised as a palm tree.

- (4) All appropriate measures shall be taken to reduce the negative proliferation of visible towers and antennae by the collocation of new antennae on existing towers or with the facilities of other providers which are located or planned for development within the proposed service area.

The nearest existing WCF's are approximately 2,900 feet to the east, and approximately 3,200 feet to the south of the site. The search ring to resolve the coverage gap has a radius of approximately 0.25 miles.

- (5) Notice shall be provided to all agents designated at least 15 days prior to the date of the public hearing before the Zoning Examiner.

All policies of the Mayor and Council Special Exception Process shall be followed accordingly.

Staff finds the proposal to be in compliance with the UDC Use-Specific Standards.

Conclusion – The proposal is in compliance with the performance criteria for a wireless communication facility. Staff acknowledges that the proposed WCF will help improve telecom services to the established neighborhoods and businesses in the area. The proposal in general compliance with *North Stone Neighborhood* and *Plan Tucson*, and does not require a plan amendment. Subject to compliance with the attached preliminary conditions, approval of the requested special exception is appropriate.

PROCEDURAL

1. A site plan in substantial compliance with the preliminary development plan dated October 2, 2017, is to be submitted and approved in accordance with *Administrative Manual*, Section 2-06.
2. The property owner shall execute a waiver of potential claims under A.R.S. Sec. 12-1134 for this zoning amendment as permitted by A.R.S. Sec. 12-1134 (I) in the form approved by the City Attorney and titled "Agreement to Waive Any Claims Against the City for Special Exception Land Use".
3. Historic or prehistoric features or artifacts discovered during future ground disturbing activities should be reported to the City of Tucson Archaeologist. Pursuant to A.R.S. 41-865 the discovery of human remains and associated objects found on private lands in Arizona must be reported to the Director of Arizona State Museum.
4. Any relocation, modification, etc., of existing utilities and/or public improvements necessitated by the proposed development shall be at no expense to the public.
5. Five years are allowed from the date of initial authorization to implement and effectuate all Code requirements and conditions of the special exception land use.
6. A copy of the Special Exception decision letter shall be included with the site plan at the time of permit application submittal.

LAND USE COMPATABILITY / CONCEALMENT MEASURES

7. The wireless communication monopalm, including attachments such as antenna panels and palm fronds, shall not exceed seventy-two (72) feet in height from grade elevation.
8. The monopalm shall include crown and pineapple.
9. The pole shall be covered with cladding (bark) from the pineapple to bottom of pole, and painted to resemble a live palm.
10. There shall be a minimum of 55 fronds ranging in length from seven (7) feet to ten (10) feet and placed to extend above, below and between antenna panels.
11. Replacement of lost/damaged fronds to be completed within ten working days of observation and fronds shall be colored to match live fronds as closely as possible.
12. T-Mobile shall routinely monitor the facility and repair/replace any artificial fronds that may become worn or damaged through time.

13. All cables shall be run inside the pole, with no foot pegs other visible appurtenances.
14. All wire ports shall be concealed behind the antennas and all equipment shall be mounted behind the antenna panels.
15. Antenna standoff from the pole shall not exceed thirty (30) inches.
16. Ground equipment to be located within lease area as depicted on the preliminary development plan dated January 22, 2016.
17. All walls visible from a public right-of-way and/or adjacent to existing residential development are to be painted with graffiti-resistant paint of an earthtone color.
18. Six-(6) inch wide fence block or greater shall be used for perimeter walls. Graffiti shall be removed from walls within seventy-two (72) hours of discovery or notification.
19. There shall be no exterior wiring, visible footpegs, portals, cabling or cable shrouds, or other unnatural appearing features on the monopole.
20. Installation of a backup generator requires evidence of compliance with the Tucson City Code, Section 16-31 Excessive Noise. The generator may be tested for up to 45 minutes per week, between the hours of 8:00 AM and 6:00 PM. Finish color and texture of all painted surfaces shall match existing surfaces of adjacent equipment enclosure. The generator shall include a fuel catchment feature designed to contain at least 210 gallons of fuel in the event of a leak.
21. Plans for future carriers must be approved through the special exception process.
22. The existing stealth flagpole structure shall be removed prior to final structural permitting of the proposed monopalm facility.

AGREEMENT TO WAIVE ANY CLAIMS
AGAINST THE CITY FOR ZONING AMENDMENT

This agreement ("**Agreement**") is entered into between _____, as the owner of the property described herein ("**Owner**") and the City of Tucson ("**City**") to waive any and all claims for diminution of value that may be based upon action by the City in response to a request from the Owner. This Agreement is entered into in conformance with A.R.S. §12-1134(l).

The Owner is the holder of fee title to the property located at _____, Tucson, Arizona, (the "Property") which is more fully described in the Owner's application to the City in Case SE-17-109 and incorporated herein. The Owner, or the authorized agent of the Owner, has submitted an application to the City requesting that the City grant a Special Exception Land Use for the Property. The Owner has requested this action because the Owner has plans for the development of the Property that require the Special Exception Land Use. The Owner believes that the Special Exception Land Use for the Property will increase the value and development potential of the Property, and that this outweighs any rights or remedies that may be obtained under A.R.S. §12-1134 et. seq.

By signing this Agreement, the Owner waives any right or claim that may arise under A.R.S. §12-1134, including any claim for the reduction in the value of the Property, as a result of the enactment of the Special Exception Land Use in Case SE-17-109.

The Owner understands that City staff may propose, the Zoning Examiner may recommend and the Mayor and Council may adopt conditions to the requested Special Exception Land Use that limit the potential development of the Property. The Owner acknowledges that the Special Exception Land Use and conditions are a single, integrated legislative approval. The Owner agrees and consents to all conditions that may be imposed. The Owner retains the right to withdraw the Special Exception Land Use application prior to a vote by the Mayor and Council or to decline to implement the necessary requirements to effectuate the Special Exception Land Use if the Owner disagrees with any conditions that are proposed or approved. If the Owner does not withdraw the application, the Owner shall be deemed to have accepted all adopted conditions to the requested Special Exception Land Use. If the Owner withdraws the application or does not effectuate the Special Exception Land Use, this Agreement is null and void.

This Agreement is entered into in Arizona and will be construed and interpreted under the laws of the State of Arizona. The Owner has agreed to the form of this Agreement provided and approved by the City Attorney. The Owner has had the opportunity to consult with an attorney of the Owner's choice prior to entering this Agreement and enters it fully understanding that the Owner is waiving the rights and remedies as set forth herein.

Upon execution, this Agreement shall be recorded in the Office of the Pima County Recorder.

The Owner warrants and represents that the person or persons listed herein as the Owner is/are the owner in fee title of the Property. The Owner further agrees to indemnify and hold the City of Tucson, its officers, employees and agents harmless from any and all claims, causes of action, demands, losses, costs and expenses based upon an alleged reduction of value of the Property as a result of the City's action in Case SE-17-109.

Dated this _____ day of _____, 20__.

Owner:

(Name of Individual, Corporation, Partnership, or LLC, as applicable)

Owner:

(Name of Individual, Corporation, Partnership, or LLC, as applicable)

By:

(Signature of Owner or Authorized Representative, if applicable)

By:

(Signature of Owner or Authorized Representative, if applicable)

Its:

(Title of Individual Signing in Representative Capacity)

Its:

(Title of Individual Signing in Representative Capacity)

State of Arizona)

County of _____)

On this _____ day of _____, 20__, before me personally appeared _____ on the basis of satisfactory evidence to be the person who he or she claims to be, and acknowledged that he or she signed the above/attached document.

Notary Public

My Commission expires:

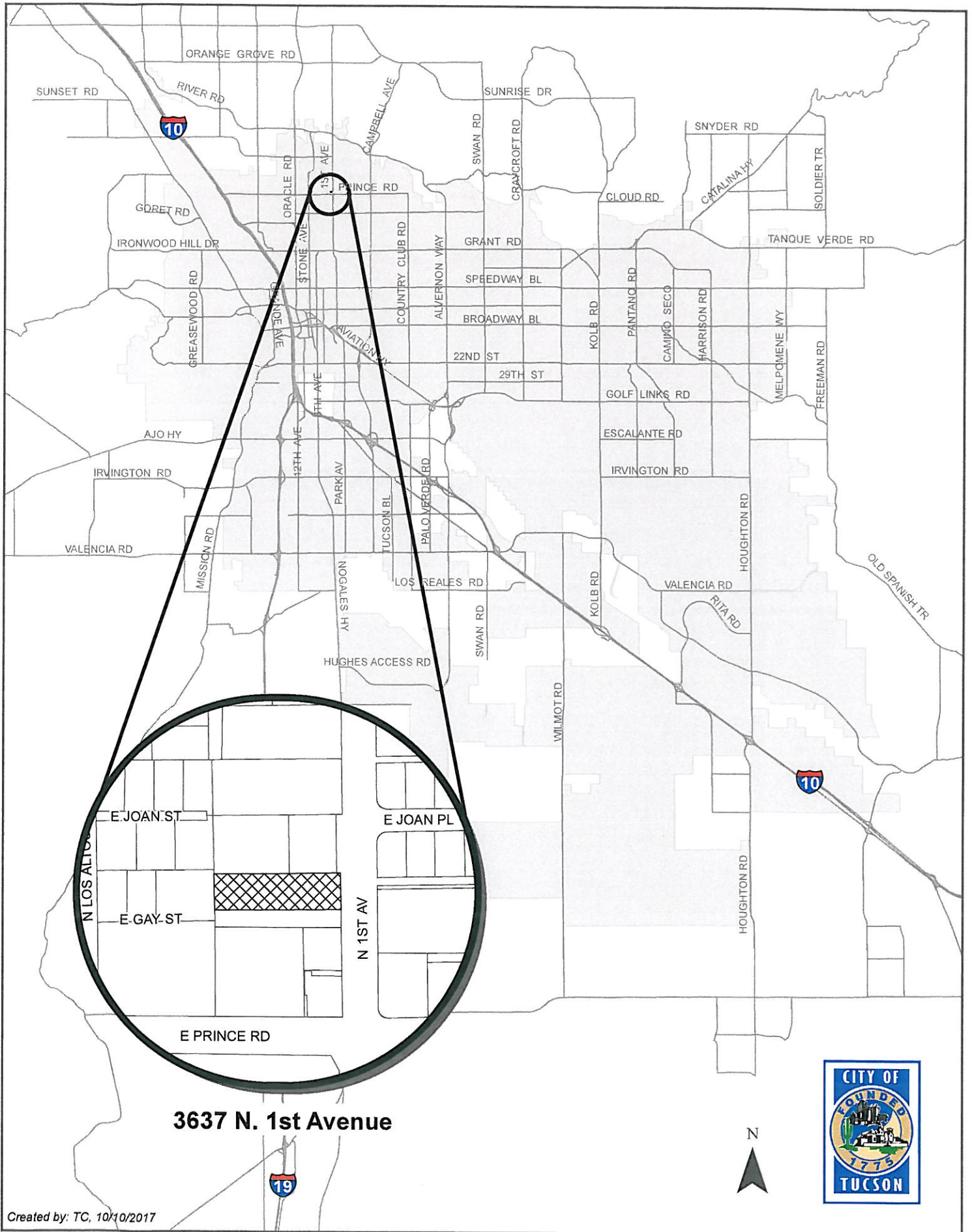
City of Tucson, an Arizona municipal Corporation:

By:

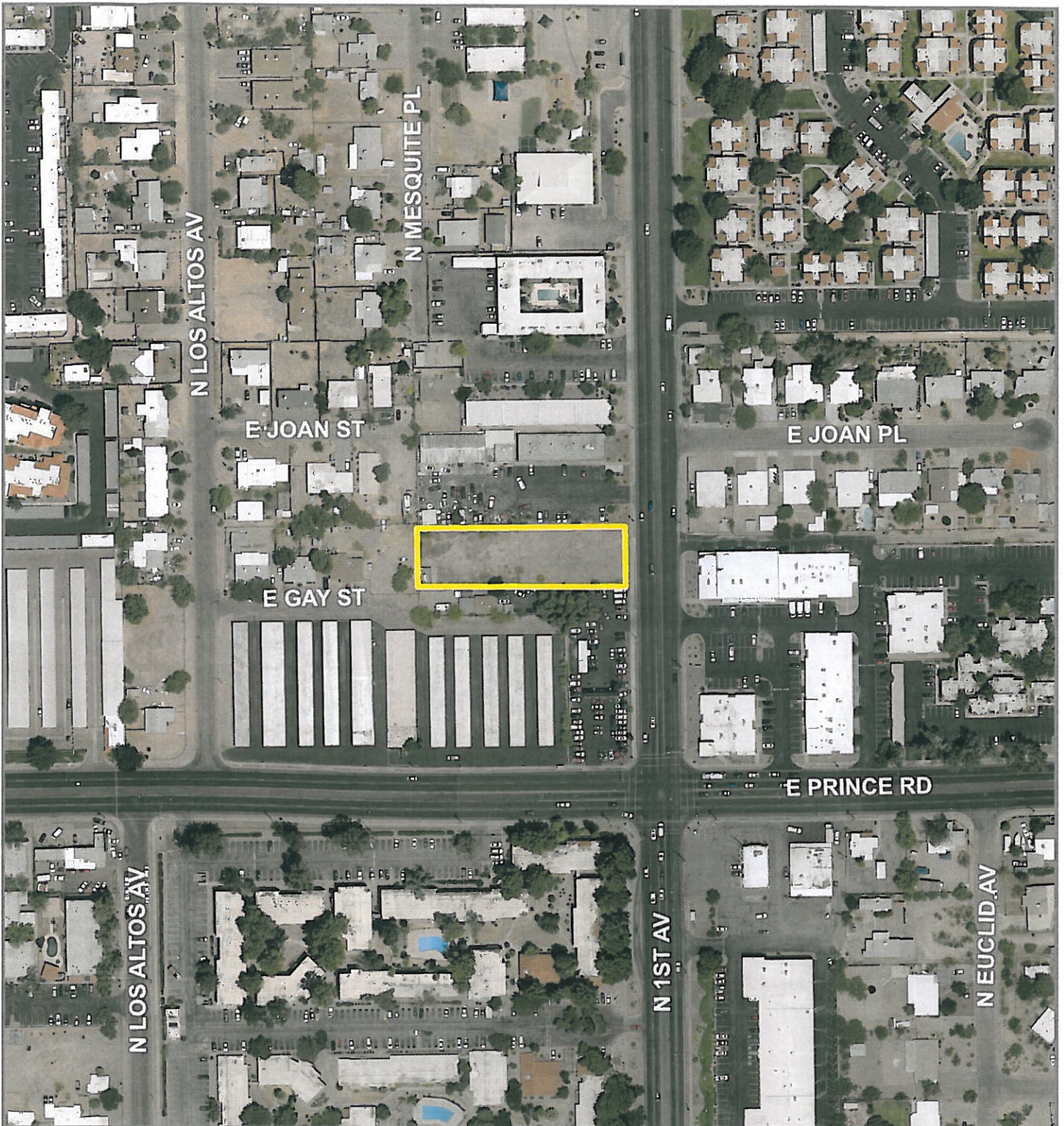
Planning & Development Services Department

This form has been approved by the City Attorney.

SE-17-109 T-Mobile - 1st Avenue



SE-17-109 T-Mobile - 1st Avenue



Area of Special Exception Request



Address: 3637 N. 1st Avenue
Base Map: Twp. 13S R. 13E Sec. 25
Ward 3

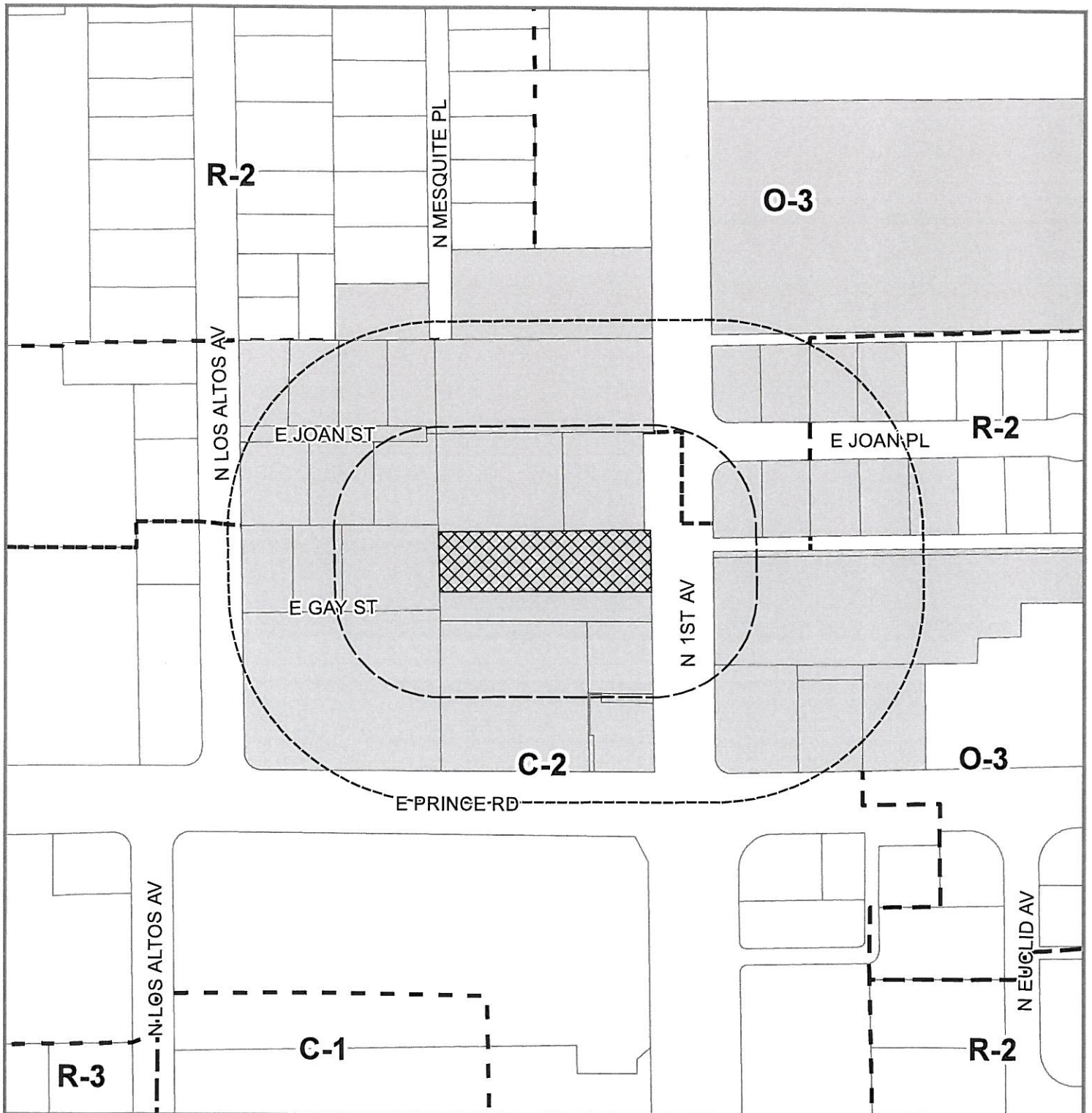
0 100 200 Feet

1 inch = 200 feet

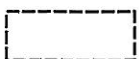
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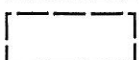
SE-17-109 T-Mobile - 1st Avenue



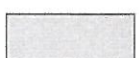
Area of Special Exception Request



Notification Area (300-foot Radius)



Protest Area (150-foot Radius)



Properties Notified



Zone Boundaries



Address: 3637 N. 1st Avenue
Base Map: Twp. 13S R. 13E Sec. 25
Ward: 3

0 100 200 Feet

1 inch = 200 feet





Approval – Protest Form

If you wish to submit a written protest or approval, this form is provided for your convenience. Please print your comments below, sign your name, and mail to the Rezoning Section of the Planning & Development Services Department at the address on the reverse side (you will need to attach postage). The number of approvals and protests along with protest calculations will be reported at the Zoning Examiner's public hearing.

Approvals and protests must have an owner's signature to be recorded.

Case SE-17-109 T-Mobile – 1st Avenue Ward # 3 C-2 Zone

The proposal is for a 72-foot tall wireless communication tower disguised as a palm tree (monopalm), to replace an existing stealth flagpole wireless communication tower within an existing lease area, and associated ground equipment as a special exception land use in the C-2 commercial zone.

I/We the undersigned property owners, wish to

- ☐ APPROVE the proposed rezoning.
☐ PROTEST the proposed rezoning.

Reason:

PLEASE PRINT YOUR NAME	PLEASE PRINT MAILING ADDRESS	PLEASE PRINT LEGAL PROPERTY DESCRIPTION		
		Subdivision	Block	Lot

Owner's Signature: _____ Date _____

SE-17-109



City of Tucson PMc
Planning & Development Services
Rezoning Section
201 N. Stone Avenue
P.O. BOX 27210
Tucson, Arizona 85726-7210

SE-17-109
IMPORTANT SPECIAL EXCEPTION NOTICE ENCLOSED